

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DANIEL LUKE SPUCK, :
Petitioner, :
v. : Civil Action No. 05-85J
JOSEPH DESUTA, SUPERINTENDENT, :
S.R.C.F. MERCER, :
Respondent :
:

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for a Report and Recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

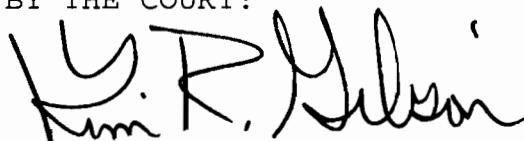
The Magistrate Judge filed a Report and Recommendation on April 24, 2006, docket no. 14, recommending that the petition for a writ of habeas corpus be denied, and a certificate of appealability denied.

The parties were notified that pursuant to 28 U.S.C. § 636(b)(1), they had ten days to serve and file written objections to the Report and Recommendation. Petitioner filed objections, docket no. 15, seeking in the alternative to stay this matter and to have counsel appointed. The objections are meritless; the motions to stay and for appointment of counsel are denied.

After de novo review of the record of this matter, the Report and Recommendation, and the timely objections thereto, the following order is entered:

AND NOW, this 22nd day of May, 2006, it is
ORDERED that the petitioner's petition for a writ of
habeas corpus is denied. A certificate of appealability is denied.
The Report and Recommendation is adopted as the opinion of the
Court: if petitioner wishes to challenge the Pennsylvania
Department of Corrections' furlough policy under 42 U.S.C. § 1983,
he must file an appropriate civil action. The Clerk shall mark
this matter closed.

BY THE COURT:



KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice to:

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Mercer, PA 16137

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